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Ethan Thomas

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LATONIA SMITH,

Plaintiff,

vs.

CAESARS ENTERTAINMENT
CORPORATION a Delaware corporation;
PHWLTV, LLC d/b/a PLANET HOLLYWOOD
RESORT AND CASINO, a Nevada limited
liability company; SHANNON PIERCE;
ETHAN THOMAS

Defendants.

CASE NO.: 2:19-cv-00856-GMN-DJA

**DEFENDANTS', CAESARS
ENTERTAINMENT CORPORATION'S;
PHWLTV, LLC d/b/a PLANET
HOLLYWOOD RESORT AND CASINO'S;
AND ETHAN THOMAS', OPPOSITION TO
PLAINTIFF'S MOTION TO STRIKE
NEW/IRRELEVANT ARGUMENTS/CASE
LAW SPECIFIC TO ANTI-SLAPP
MOTIONS (ECF NO. 80)**

Defendants, Caesars Entertainment Corporation ("CEC"), PHWLTV, LLC d/b/a Planet Hollywood Resort And Casino ("PHWLTV"), and Ethan Thomas ("Mr. Thomas") (collectively referred to as "PHW"), by and through their counsel of record, Hall Jaffe & Clayton, LLP, hereby file this Opposition to Plaintiff's Motion to Strike New/Irrelevant Arguments/Case Law Specific to Anti-SLAPP Motions (ECF No. 80).

Plaintiff's "Motion to Strike" should be denied because such a procedure is generally disfavored, and even more so in this case, when PHW cannot even ascertain from Plaintiff's confusing document (ECF 80) what, exactly, she is intending to have stricken. By failing to even reference what Plaintiff intends to have "stricken," coupled with the fact that Plaintiff provides no legal support for such a request, this Court should deny Plaintiff's Motion to Strike.

1 This Opposition is made and based upon the pleadings and papers on file herein, the following
 2 memorandum of points and authorities, and any oral argument allowed at the time of hearing on this
 3 matter.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. LEGAL ARGUMENT**

6 **A. Brief Factual Overview Relevant to the Motion to Strike (ECF 80).**

7 Given the never-ending barrage of recent court filings submitted by Plaintiff, including Plaintiff's
 8 one-sided, but erroneous, recitation of the history of these interrelated cases in Plaintiff's Motion to
 9 Strike (ECF 80, pp. 1-2), PHW understands that the Court is intimately familiar with this general
 10 background of this case; thus, PHW will not reiterate the background facts of this case here. Suffice it to
 11 say that PHW vehemently disagrees with Plaintiff's version of events. However, for purposes of the
 12 instant Motion to Strike, PHW must point out that Plaintiff only provided this Court with a total of three
 13 sentences in her brief in support of her request that certain arguments and case law relating to the SLAPP
 14 lawsuit be stricken. The entirety of Plaintiff's position is captured in the following excerpt:

15 Defense also argues again, even inserting new arguments, that Plaintiff's lawsuit is a
 16 SLAPP lawsuit. Since Plaintiff has already addressed this argument, including the ways
 17 in which defendants have failed to meet all prongs in categorizing Ms. Smith's suit as a
 18 SLAPP suit, in depth, in her Opposition to the motion to dismiss, Plaintiff will not
 19 readdress the argument herein. In fact, Ms. Smith moves to strike defense's new
 20 arguments/attached case law concerning references to the SLAPP suit as it is irrelevant to
 21 Plaintiff's Motion for Leave to Amend her Complaint and is only being used by defense
 22 to add on to their earlier Motion to Dismiss.

23 (ECF 80, p. 3:1-7). Notably, Plaintiff does not identify a single citation to a filed document where PHW
 24 purportedly inserted "new arguments" or "attached case law" concerning Plaintiff's SLAPP suit. (ECF
 25 80). Likewise, Plaintiff does not cite a single case, statute, or rule in her Motion to Strike to support her
 26 request to strike PHW's arguments or case law. *Id.* Thus, because Plaintiff's Motion to Strike is
 27 completely devoid of any factual substance or legal reasoning to support her request, the Court should
 28 readily conclude that the Motion to Strike lacks merit, and should be denied. *See e.g., Mag Instrument,*
Inc. v. JS Prod.'s, Inc., 595 F. Supp. 2d 1102, 1106 (C.D. Cal. 2008)(holding that motions to strike are
 disfavored and should be granted sparingly).

B. PHW's Opposition to Plaintiff's Cross Motion for Leave to Amend (ECF 69) Properly Addresses Plaintiff's Motion To Amend, And All Arguments And Legal Authority Cited Therein Are Appropriate.

In light of Plaintiff's suggestion that PHW purportedly made "new arguments" or cited to "irrelevant case law" in opposing Plaintiff's Motion for Leave to Amend, PHW has carefully reviewed its prior brief (ECF 69) and can affirm, unequivocally and without hesitation, that the points and authorities submitted therewith are factually accurate and legally supported. Indeed, there is nothing in PHW's Opposition to the Motion for Leave to Amend that can, in any way, be characterized as improperly presenting "new arguments" or "irrelevant case law." Rather, PHW's opposition to the motion for leave to amend is meritorious because Plaintiff's proposed amended complaint: (1) violates Nevada's Anti-SLAPP statute and Nevada's absolute litigation privilege; and (2) her additional/new claims for "civil conspiracy" and "breach of confidentiality" are futile because they fail to assert cognizable claims under Nevada law. *See e.g., Gotham v. World Sav. Bank, FSB*, 2011 WL 4761406, *2 (D. Nev. 2011) citing *Forman v. Davis*, 371 U.S. 178, 172 (1962)(holding that a motion for leave to amend may be denied when, among other things, a proposed amended complaint is futile).

Indeed, PHW, like any party opposing a motion for leave to amend, must demonstrate how/why the proffered claims are either defective in light of an outright legal defense (e.g., in violation of a statute of limitations or, like here, in violation of Nevada's Anti-SLAPP statute and Nevada's absolute litigation privilege), or through pointing out how the specific allegations in the complaint fail to assert cognizable claims. This is exactly what PHW did here, and why its Opposition to the Motion for Leave to Amend cannot, in any way, be characterized as improperly raising "new arguments" or asserting "irrelevant case law."

To conserve time and judicial resources, PHW will simply refer this Court to its Opposition to the Cross Motion for Leave to Amend (ECF 60) and let the brief speak for itself. Upon reviewing that document, if necessary, this Court should conclude that Plaintiff's Motion to Strike is improper and should be denied.

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1 **III. CONCLUSION**

2 By failing to even reference what Plaintiff intends to have “stricken,” coupled with the fact that
3 Plaintiff provides no legal support for such a request, this Court should deny Plaintiff’s Motion to Strike.

4 Dated this 12th day of September, 2019.

5 HALL JAFFE & CLAYTON, LLP

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7 By /s/ Riley A. Clayton
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CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Federal Rule of Procedure, I hereby certify under penalty of perjury that I am an employee of HALL JAFFE & CLAYTON, LLP, and that on the 12th day September, 2019, the foregoing **DEFENDANTS', CAESARS ENTERTAINMENT CORPORATION'S; PHWLTV, LLC d/b/a PLANET HOLLYWOOD RESORT AND CASINO'S; AND ETHAN THOMAS',** **OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE NEW/IRRELEVANT ARGUMENTS/CASE LAW SPECIFIC TO ANTI-SLAPP MOTIONS (ECF NO. 80)** was served upon the parties via the Court's CM/ECF e-filing and service program, and via U.S. Mail, addressed as follows, noting that Plaintiff is in proper person:

Latonia Smith
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Plaintiff in Proper Person

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